

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CIVIL NO. 1:04CV259

**LOETTA J. HAIGLER, and JAMES W.)
HAIGLER,)**

Plaintiffs,)

Vs.)

ORDER OF DISMISSAL

**WYETH, INC.; WYETH)
PHARMACEUTICALS, INC.; SOLVAY)
PHARMACEUTICALS, INC.;)
SMITHKLINE BEECHAM; BRISTOL-)
MYERS SQUIBB CO.; PHARMACIA &)
UPJOHN COMPANY; PFIZER, INC.;)
GREENSTONE, LTD.; and BARR)
PHARMACEUTICALS, INC.,)**

Defendants.)

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation, filed July 5, 2005.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, United States Magistrate Judge Dennis L. Howell, was designated to consider pending motions in the captioned civil action and to submit to this Court recommendations for the disposition of these motions.

On July 5, 2005, the Magistrate Judge filed a Memorandum and Recommendation in this case containing proposed findings of fact and conclusions of law in support of a recommendation regarding the Defendant Bristol-Myers Squibb Co.'s motion to dismiss. The parties were

advised that any objections to the Magistrate Judge's findings were to be filed in writing within 14 days of service of the Recommendation; the period within which to file objections expired on July 22, 2005. No written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed findings of fact are supported by the record and that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's Recommendation the Defendant's motion to dismiss be allowed.

IT IS, THEREFORE, ORDERED that the motion of Defendant Bristol-Myers Squibb Co., to dismiss on the grounds of failure to effectuate service, insufficiency of process, and failure to state a claim is **ALLOWED**, and Plaintiffs' claims as to this Defendant are hereby **DISMISSED WITHOUT PREJUDICE**.

Signed: August 10, 2005

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

